

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-589-C AND DOCKET NO. 98-612-C  
ORDER NO. 98-1032  
DECEMBER 30, 1998

IN RE: Petition of Intermedia Communications Inc.)	
Arbitration with BellSouth Telecommunications,	)
Inc. Pursuant to the Telecommunications Act	)
of 1996.	)
	)
and	)
	)
Petition of e.spire Communications, Inc. and	)
American Communication Services of Charleston,	)
Inc., American Communication Services of	)
Columbia, Inc., American Communications	)
Services of Greenville, Inc., American	)
Communications Services of Spartanburg, Inc.	)
for Arbitration of an Interconnection Agreement	)
with BellSouth Telecommunications, Inc. Pursuant	)
to Section 252(b) of the Telecommunications	)
Act of 1996.	)

ORDER  
GRANTING ✓ MR  
MOTION TO  
CONSOLIDATE  
AND APPROVING  
PROCEDURES AND  
SCHEDULE FOR  
ARBITRATION  
HEARING

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the Joint Motion for Consolidation filed by Intermedia Communications Inc. (“Intermedia”) and e.spire Communications, Inc. (formerly known as “American Communications Services, Inc.”) and its local exchange operating subsidiaries in South Carolina, American Communication Services of Charleston, Inc., American Communication Services of Columbia, Inc., American Communications Services of Greenville, Inc., and American Communications Services of Spartanburg,

Inc. (collectively known as “e.spire”). By their Motion, Intermedia and e.spire (“collectively referred to herein as “Movants”) move to consolidate their respective arbitration proceedings with BellSouth Telecommunications, Inc. (“BellSouth”). The Motion is filed pursuant to Section 252(g) of the federal Telecommunications Act of 1996 (the “1996 Act”).

In support of their Motion, the Movants state that their respective petitions for arbitration involve similar issues of law and/or fact. By way of example, the Movants state that they share common disputes with BellSouth concerning, among other things, BellSouth’s collocation policy and BellSouth’s inability to provision specific UNEs. The Movants assert that the underlying facts giving rise to the disputed issues are substantially similar, as is the applicable law.

The Movants also offer that consolidation of the proceedings will reduce administrative burdens on the parties and on the Commission. The Movants state that they intend to use the same expert witness and that consolidation will enable the Movants to share the cost of sponsoring the expert witness. Further, the Movants state that consolidation of the proceedings will allow BellSouth to present its witnesses only once, not twice. Additionally, the Movants submit that consolidation will circumvent the necessity of having to schedule back-to-back hearings resulting in administrative efficiencies for the Commission.

Finally, the Movants assert that consolidating the proceeding will not prejudice any party nor will any party gain an unfair strategic advantage. The Movants suggest that all parties and the Commission stand to benefit equally from consolidation by avoiding

duplicative and unnecessary expenditures of resources and reducing time and resource constraints.

BellSouth filed a response to the Motion. By its Response, BellSouth stated that it does not object to consolidation of the issues that are common to both arbitration proceedings. However, to the extent that issues arise which are unique to each petition, BellSouth requests that only the parties directly involved should be allowed to participate in the litigation of the issues that are unique to only one of the petitions. In other words, BellSouth requests that only BellSouth and e.spire should be allowed to participate with respect to issues unique to the e.spire petition and that only BellSouth and Intermedia should be allowed to participate with respect to the Intermedia petition.

Upon consideration of the Motion, the Commission notes that Section 252(g) of the 1996 Act states:

Consolidation of State Proceedings. – Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 241(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

The Commission is of the opinion and so finds that consolidation of the arbitration petitions of Intermedia and e.spire should be allowed. The Commission believes that consolidation of the petitions will reduce administrative burdens on the parties as well as on the Commission by obviating the need for two hearings with virtually the same witnesses. Consolidation of the petitions should promote judicial economy as well as

reduce costs for all parties. Further, the Commission does not believe that any party will be prejudiced by consolidation of the proceedings.

In order to proceed with the arbitration proceedings, the Commission must establish certain scheduling and procedures for the parties in advance of the Arbitration Hearing. Therefore, the Commission adopts the following schedule and procedures for the arbitration of the petitions of Intermedia and e.spire:

1. The Arbitration Hearing in these dockets shall begin at 2:30 p.m. on Tuesday, February 16, 1999.
  2. Intermedia and e.spire shall prefile their testimony and exhibits in this matter on or before January 19, 1999.
  3. BellSouth shall prefile its testimony and exhibits on or before February 2, 1999.
  4. The Parties (Intermedia, e.spire, and BellSouth) as well as any Participants admitted in this matter, may submit a nonbinding list of questions to the “Arbitrator” (the Commission) on or before February 8, 1999.
  5. Opening statements of the Parties and Participants will be allowed at the beginning of the hearing.
  6. Direct testimony and exhibits from the Parties’ witnesses shall be presented to the “Arbitrator” (the Commission) in a panel format. All witnesses will be sworn concurrently.
  7. The “Arbitrator” or its designee shall conduct examination of the witnesses.
- The Commission names the Executive Assistant to the Commissioners as the

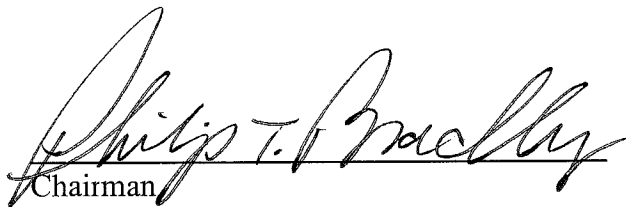
Commission's designee. Examination may be directed to a specific witness or witnesses or to the entire panel of witnesses.

8. Closing statements of the Parties and Participants will be allowed at the conclusion of the hearing.
9. The Commission will follow the arbitration procedures established in prior arbitration dockets. However, the Commission reserves the right to amend or modify the instant schedule and procedures for Arbitration as the Commission deems necessary.

IT IS THEREFORE ORDERED THAT:

1. The Motion for Consolidation filed by Intermedia and e.spire requesting consolidation of their respective petitions for arbitration is granted.
2. The schedule and procedures for Arbitration set forth above is adopted.
3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSISON:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)